

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
1998 Biennial Regulatory Review –)	CC Docket No. 98-171
Streamlined Contributor Reporting)	
Requirements Associated with Administration of)	
Telecommunications Relay Service, North)	
American Numbering Plan, Local Number)	
Portability, and Universal Service Support)	
Mechanisms)	
)	
Changes to the Board of Directors of)	CC Docket No. 97-21
The National Exchange Carrier Association)	

REPLY OF THE UNITED STATES TELECOM ASSOCIATION

The United States Telecom Association (USTA)¹ submits this reply through the undersigned pursuant to the Federal Communications Commission's (FCC's or Commission's) rule section 1.115² in the above-referenced dockets. Consistent with the Applications for Review filed by SBC, Qwest, and Business Discount Plan (BDP), USTA urges the Commission to reverse the decision of the Wireline Competition Bureau, which amended the Commission's rules so that the Universal Service Administrative Company (USAC) is required to reject as untimely any revisions to a carrier's Form 499-A Telecommunications Reporting Worksheet (Form or Form 499-A) that would result in decreased contributions to federal support

¹ USTA is the nation's oldest trade organization for the local exchange carrier industry. USTA's carrier members provide a full array of voice, data, and video services over wireline and wireless networks.

² 47 C.F.R. §1.115.

mechanisms if the revision is not submitted within 12 months of the due date of the original filing.

USTA agrees with SBC, Qwest, and BDP that the rule change implemented by the Bureau is procedurally defective because the Bureau exceeded the authority delegated to it – that is, the authority to make administrative changes to the reporting requirements of the Form 499-A. The Bureau’s rule change is substantive because it changes the standards by which USAC evaluates which revisions to the Form it can accept. Importantly, such substantive changes were reserved by the Commission for Commission action; again, such changes were not delegated to the Bureau.³ Moreover, this type of substantive change is one that should have been made pursuant to notice and comment in accordance with the Administrative Procedure Act. Yet, no such notice and opportunity for comment was provided. In addition to the Bureau’s abuse of discretion in changing the rule about which revisions to the Form 499-A can be filed and accepted, the Bureau’s rule change is also arbitrary and capricious in that it unfairly and without justification limits revisions for overpayment, but does not similarly limit revisions for underpayment, to USAC.

USTA agrees with SBC, Qwest, Sprint,⁴ and AT&T⁵ that if the Commission believes a deadline is necessary for when revisions to the Form 499-A can be filed with and accepted by USAC, then the deadline should apply to all revisions, whether they result in either increased or

³ *Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, Report and Order and Second Order on Reconsideration, CC Docket Nos. 96-45, 97-21, 12 FCC Rcd 18400, ¶39 (1997).

⁴ Sprint filed a Petition for Reconsideration.

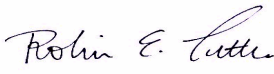
⁵ AT&T filed comments in support of the Applications for Review and the Petition for Reconsideration. *See generally* AT&T Comments (filed Jan. 25, 2005).

decreased contributions to support the programs that are funded by revenues reported on the Form.

For the foregoing reasons, the Commission should reverse the Bureau's decision and direct the Bureau to adopt uniform deadlines for filing all revisions to the Form 499-A.

Respectfully submitted,

UNITED STATES TELECOM ASSOCIATION

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CERTIFICATE OF SERVICE

I, Meena Joshi, do certify that on February 4, 2005, the aforementioned Reply of The United States Telecom Association was electronically filed with the Commission through its Electronic Comment Filing System, electronically mailed to Best Copy and Printing, Inc. at fcc@bcpiweb.com, and served by U.S. first class mail, postage prepaid, on the following parties:

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